

West's Tennessee Code Annotated  
Title 36. Domestic Relations  
Chapter 6. Child Custody and Visitation  
Part 1. General Custody Provisions

T. C. A. T. 36, Ch. 6, Pt. 1, Refs & Annos  
[Currentness](#)

T. C. A. T. 36, Ch. 6, Pt. 1, Refs & Annos, TN ST T. 36, Ch. 6, Pt. 1, Refs & Annos  
Current with laws from the 2013 First Reg. Sess., eff. through June 30, 2013 and Ch. 390, eff. July 1, 2013

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West's Tennessee Code Annotated

Title 36. Domestic Relations

Chapter 6. Child Custody and Visitation

Part 1. General Custody Provisions (Refs & Annos)

T. C. A. § 36-6-101

§ 36-6-101. Judgments and decrees; enforcement; gender

Effective: August 11, 2010

[Currentness](#)

(a)(1) In a suit for annulment, divorce or separate maintenance, where the custody of a minor child or minor children is a question, the court may, notwithstanding a decree for annulment, divorce or separate maintenance is denied, award the care, custody and control of such child or children to either of the parties to the suit or to both parties in the instance of joint custody or shared parenting, or to some suitable person, as the welfare and interest of the child or children may demand, and the court may decree that suitable support be made by the natural parents or those who stand in the place of the natural parents by adoption. Such decree shall remain within the control of the court and be subject to such changes or modification as the exigencies of the case may require.

(2)(A)(i) Except as provided in this subdivision (a)(2)(A), neither a preference nor a presumption for or against joint legal custody, joint physical custody or sole custody is established, but the court shall have the widest discretion to order a custody arrangement that is in the best interest of the child. Unless the court finds by clear and convincing evidence to the contrary, there is a presumption that joint custody is in the best interest of a minor child where the parents have agreed to joint custody or so agree in open court at a hearing for the purpose of determining the custody of the minor child. For the purpose of assisting the court in making a determination whether an award of joint custody is appropriate, the court may direct that an investigation be conducted. The burden of proof necessary to modify an order of joint custody at a subsequent proceeding shall be by a preponderance of the evidence.

(ii) Unless the court finds by clear and convincing evidence to the contrary, there is a presumption that custody shall not be awarded to a parent who has been convicted of a criminal offense under title 39, chapter 13, part 5, against a child less than eighteen (18) years of age.

(iii) The provisions of subdivision (a)(2)(A)(ii) shall apply only to persons who are convicted on or after July 1, 2006. Subdivision (a)(2)(A)(ii) and this subdivision (a)(2)(A)(iii) shall not be construed to prevent a parent from being granted visitation with the child; provided, however, that any visitation shall be supervised.

(iv) If it is determined by the court, based upon a prior order or reliable evidence, that a parent has willfully abandoned a child for a period of eighteen (18) months, as the term is used in § 36-6-406(a)(1), then, unless the court finds by clear and convincing evidence to the contrary, the abandoning parent's residential time, as provided in the permanent or temporary parenting plan or other court order, shall be limited. This subdivision (a)(2)(A)(iv) shall not be construed to prevent such a parent from being granted limited visitation with the child. Nothing in this subdivision (a)(2)(A)(iv) shall be construed to apply to children in the legal custody of the department of children's services.

(B) If the issue before the court is a modification of the court's prior decree pertaining to custody, the petitioner must prove by a preponderance of the evidence a material change in circumstance. A material change of circumstance does not require a showing of a substantial risk of harm to the child. A material change of circumstance may include, but is not limited to, failures to adhere to the parenting plan or an order of custody and visitation or circumstances that make the parenting plan no longer in the best interest of the child.

(i) In each contested case, the court shall make such a finding as to the reason and the facts that constitute the basis for the custody determination.

(ii) Nothing contained within the provisions of this subdivision (a)(2) shall interfere with the requirement that parties to an action for legal separation, annulment, absolute divorce or separate maintenance incorporate a parenting plan into the final decree or decree modifying an existing custody order.

(iii) Nothing in this subsection (a) shall imply a mandatory modification to the child support order.

(C) If the issue before the court is a modification of the court's prior decree pertaining to a residential parenting schedule, then the petitioner must prove by a preponderance of the evidence a material change of circumstance affecting the child's best interest. A material change of circumstance does not require a showing of a substantial risk of harm to the child. A material change of circumstance for purposes of modification of a residential parenting schedule may include, but is not limited to, significant changes in the needs of the child over time, which may include changes relating to age; significant changes in the parent's living or working condition that significantly affect parenting; failure to adhere to the parenting plan; or other circumstances making a change in the residential parenting time in the best interest of the child.

(3) Except when the court finds it not to be in the best interests of the affected child, each order pertaining to the custody or possession of a child arising from an action for absolute divorce, divorce from bed and board or annulment shall grant to each parent the rights listed in subdivisions (a)(3)(A)(i)-(vi) during periods when the child is not in that parent's possession or shall incorporate such rights by reference to a prior order. Other orders pertaining to custody or possession of a child may contain the rights listed in subdivisions (a)(3)(A)(i)-(vi).

(A) The referenced rights are as follows:

(i) The right to unimpeded telephone conversations with the child at least twice a week at reasonable times and for reasonable durations;

(ii) The right to send mail to the child that the other parent shall not open or censor;

(iii) The right to receive notice and relevant information as soon as practicable but within twenty-four (24) hours of any event of hospitalization, major illness or death of the child;

(iv) The right to receive directly from the child's school records, names of teachers, class schedules, standardized test scores, and any other records customarily made available to parents, upon written request that includes a current mailing address and upon payment of reasonable costs of duplicating;

(v) Unless otherwise provided by law, the right to receive copies of the child's medical, health or other treatment records directly from the physician or health care provider who provided such treatment or health care upon written request that contains a current mailing address and upon payment of reasonable costs of duplication; provided, that no person who receives the mailing address of a parent as a result of this requirement shall provide such address to the other parent or a third person;

(vi) The right to be free of unwarranted derogatory remarks made about such parent or such parent's family by the other parent to or in the presence of the child;

(vii) The right to be given at least forty-eight (48) hours notice, whenever possible, of all extra-curricular activities, and the opportunity to participate or observe, including, but not limited to, the following:

(a) School activities;

(b) Athletic activities;

(c) Church activities; and

(d) Other activities as to which parental participation or observation would be appropriate;

(viii) The right to receive from the other parent, in the event the other parent leaves the state with the minor child or children for more than two (2) days, an itinerary including telephone numbers for use in the event of an emergency; and

(ix) The right of access and participation in education, including the right of access to the minor child or children for lunch and other activities, on the same basis that is provided to all parents, provided the participation or access is reasonable and does not interfere with day-to-day operations or with the child's educational performance.

(B) Any of the foregoing rights may be denied in whole or in part to one or both parents by the court upon a showing that such denial is in the best interests of the child. Nothing herein shall be construed to prohibit the court from ordering additional rights where the facts and circumstances so require.

(4) Notwithstanding any common law presumption to the contrary, a finding under [§ 36-6-106\(8\)](#), that child abuse, as defined in [§ 39-15-401](#) or [§ 39-15-402](#), or child sexual abuse, as defined in [§ 37-1-602](#), has occurred within the family shall give rise to a rebuttable presumption that it is detrimental to the child and not in the best interests of the child to award sole custody, joint legal or joint physical custody to the perpetrator of such abuse.

(b) Notwithstanding any provision of this section to the contrary, the party, or parties, or other person awarded custody and control of such child or children shall be entitled to enforce the provisions of the court's decree concerning the suitable support of such child or children in the appropriate court of any county in this state in which such child or children reside; provided, that such court shall have divorce jurisdiction, if service of process is effectuated upon the obligor within this state. Jurisdiction to modify or alter such decree shall remain in the exclusive control of the court that issued such decree.

(c) Nothing in this chapter shall be construed to alter, modify or restrict the exclusive jurisdiction of the juvenile court pursuant to [§ 37-1-103](#).

(d) It is the legislative intent that the gender of the party seeking custody shall not give rise to a presumption of parental fitness or cause a presumption or constitute a factor in favor or against the award of custody to such party.

(e)(1) In an action for dissolution of marriage involving minor children, or in a post-judgment proceeding involving minor children, if the court finds, on a case by case basis, that it would be in the best interest of the minor children, the court may on its own motion, or on the motion of either party, order the parties, excluding the minor children, to attend an educational seminar concerning the effects of the dissolution of marriage on the children. The program may be divided into sessions, which in the aggregate shall not exceed four (4) hours in duration. The program shall be educational in nature and not designed for individual therapy.

(2) The fees or costs of the educational sessions under this section, which shall be reasonable, shall be borne by the parties and may be assessed by the court as it deems equitable. Fees may be waived upon motion for indigent persons.

(3) No court shall deny the granting of a divorce from the bonds of matrimony for failure of a party or both parties to attend the educational session. Refusal to attend the educational session may be punished by contempt and may be considered by the court as evidence of the parent's lack of good faith in proceedings under part 4 of this chapter.

#### **Credits**

1971 Pub.Acts, c. 438, § 1; 1973 Pub.Acts, c. 387, § 1; 1979 Pub.Acts, c. 187, § 3; 1985 Pub.Acts, c. 382, §§ 1, 2; 1987 Pub.Acts, c. 145, § 9; 1987 Pub.Acts, c. 266, § 1; [1994 Pub.Acts, c. 818, § 1, eff. April 15, 1994](#); [1996 Pub.Acts, c. 1046, § 1, eff. May 15, 1996](#); [1997 Pub.Acts, c. 208, § 1, eff. May 13, 1997](#); [1997 Pub.Acts, c. 351, § 1, eff. July 1, 1997](#); [1998 Pub.Acts, c. 1059, § 7, eff. Jan. 1, 1999](#); [1998 Pub.Acts, c. 1095, § 1, eff. July 1, 1998](#); [1999 Pub.Acts, c. 250, § 1, eff. May 26, 1999](#); [2000 Pub.Acts, c. 751, § 1, eff. May 18, 2000](#); [2000 Pub.Acts, c. 885, § 1, eff. June 5, 2000](#); [2002 Pub.Acts, c. 616, § 1](#); [2002 Pub.Acts, c. 859, § 1, eff. July 15, 2002](#); [2003 Pub.Acts, c. 245, § 1, eff. June 3, 2003](#); [2004 Pub.Acts, c. 759, §§ 1, 2, eff. May 24, 2004](#); [2006 Pub.Acts, c. 652, § 1, eff. July 1, 2006](#); [2006 Pub.Acts, c. 979, § 1, eff. July 1, 2006](#).

**Formerly** 1932 Code, § 8454; § 36-828.

#### [Notes of Decisions \(245\)](#)

T. C. A. § 36-6-101, TN ST § 36-6-101

Current with laws from the 2013 First Reg. Sess., eff. through June 30, 2013 and Ch. 390, eff. July 1, 2013

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T. C. A. § 36-6-102

§ 36-6-102. Repealed by 1995 Pub.Acts, c. 428, § 1, eff. June 12, 1995

[Currentness](#)

T. C. A. § 36-6-102, TN ST § 36-6-102

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T. C. A. § 36-6-103

§ 36-6-103. Medical records

Currentness

(a)(1) A copy of a child's medical records shall be furnished by the treating physician or treating hospital upon a written request by any of the following:

(A) The noncustodial parent;

(B) In the case of parents having joint custody of a child, the parent with whom the child is not residing; or

(C) In the case of a child in the custody of a legal guardian, then either parent.

(2) Such request must contain the current address of the requesting party.

(3) Upon receiving such a request, the treating physician or hospital shall send a copy of the medical records to the requesting party unless furnished with a court order closing the records.

(4) All expenses for records shall be paid by the requesting party.

(b) Any judge having jurisdiction over the custody of such child may close the medical records of the child to the requesting parent upon a showing that the best interests of the child will be harmed if the records are released.

**Credits**

1987 Pub.Acts, c. 237, § 1; 1989 Pub.Acts, c. 381, § 1.

Notes of Decisions (1)

T. C. A. § 36-6-103, TN ST § 36-6-103

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T. C. A. § 36-6-104

§ 36-6-104. Report cards; furnishing to noncustodial or nonresident parent

Currentness

(a) Any parent who does not have custody of a child, or in the case of parents having joint custody of a child, the parent not residing with the child, or in the case of a child in the custody of a legal guardian, both parents, may request, in writing, that a copy of the child's report card, notice of school attendance, names of teachers, class schedules, standardized test scores and any other records customarily available to parents be furnished directly to such noncustodial or nonresident parent, and such request shall be accompanied by the parent's or parents' current mailing address, and the local education agency (LEA) shall send a copy of the report card, notice of school attendance, names of teachers, class schedules, standardized test scores and any other records customarily available to parents to such address.

(b) The LEA shall provide proof of a child's graduation from high school to the department of human services, the department's contractor, or either of the child's parents within twenty (20) business days of the department's, the department's contractor, or the parent's or parents' written request for such proof. The LEA shall not include any information that would violate any provisions protecting the child's privacy, or [§ 36-5-101\(c\)\(2\)\(B\)\(iv\)](#).

(c) Any judge having jurisdiction over the custody of such a child may, upon a showing of good cause, deny any information concerning the residence of the child to the noncustodial or nonresident parent.

**Credits**

1986 Pub.Acts, c. 579, § 1; 1987 Pub.Acts, c. 372, §§ 1, 2; [1997 Pub.Acts, c. 351, § 2, eff. July 1, 1997](#); [2004 Pub.Acts, c. 906, § 4, eff. Jan. 1, 2005](#).

[Notes of Decisions \(1\)](#)

T. C. A. § 36-6-104, TN ST § 36-6-104

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T. C. A. § 36-6-105

§ 36-6-105. Schools and school districts; day care; change in physical custody

Currentness

No school official shall permit a change in the physical custody of a child at such official's school or day care center unless:

- (1) The person seeking custody of the child presents the school official with a certified copy of a valid court order from a Tennessee court placing custody of such child in such person; and
- (2) The person seeking custody gives the school official reasonable advance notice of such person's intent to take custody of such child at such official's school or day care center.

**Credits**

1992 Pub.Acts, c. 963, § 1.

T. C. A. § 36-6-105, TN ST § 36-6-105

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T. C. A. § 36-6-106

§ 36-6-106. Child custody

Effective: May 14, 2013

[Currentness](#)

(a) In a suit for annulment, divorce, separate maintenance, or in any other proceeding requiring the court to make a custody determination regarding a minor child, the determination shall be made on the basis of the best interest of the child. In taking into account the child's best interest, the court shall order a custody arrangement that permits both parents to enjoy the maximum participation possible in the life of the child consistent with the factors set out in subdivisions (a)(1)-(10), the location of the residences of the parents, the child's need for stability and all other relevant factors. The court shall consider all relevant factors, including the following, where applicable:

- (1) The love, affection and emotional ties existing between the parents or caregivers and the child;
- (2) The disposition of the parents or caregivers to provide the child with food, clothing, medical care, education and other necessary care and the degree to which a parent or caregiver has been the primary caregiver;
- (3) The importance of continuity in the child's life and the length of time the child has lived in a stable, satisfactory environment; provided, that, where there is a finding, under subdivision (a)(8), of child abuse, as defined in [§ 39-15-401](#) or [§ 39-15-402](#), or child sexual abuse, as defined in [§ 37-1-602](#), by one (1) parent, and that a nonperpetrating parent or caregiver has relocated in order to flee the perpetrating parent, that the relocation shall not weigh against an award of custody;
- (4) The stability of the family unit of the parents or caregivers;
- (5) The mental and physical health of the parents or caregivers;
- (6) The home, school and community record of the child;
- (7)(A) The reasonable preference of the child, if twelve (12) years of age or older;  
  
(B) The court may hear the preference of a younger child on request. The preferences of older children should normally be given greater weight than those of younger children;
- (8) Evidence of physical or emotional abuse to the child, to the other parent or to any other person; provided, that, where there are allegations that one (1) parent has committed child abuse, as defined in [§ 39-15-401](#) or [§ 39-15-402](#), or child sexual abuse,

as defined in [§ 37-1-602](#), against a family member, the court shall consider all evidence relevant to the physical and emotional safety of the child, and determine, by a clear preponderance of the evidence, whether such abuse has occurred. The court shall include in its decision a written finding of all evidence, and all findings of facts connected to the evidence. In addition, the court shall, where appropriate, refer any issues of abuse to the juvenile court for further proceedings;

(9) The character and behavior of any other person who resides in or frequents the home of a parent or caregiver and the person's interactions with the child; and

(10) Each parent's or caregiver's past and potential for future performance of parenting responsibilities, including the willingness and ability of each of the parents and caregivers to facilitate and encourage a close and continuing parent-child relationship between the child and both of the child's parents, consistent with the best interest of the child. In determining the willingness of each of the parents and caregivers to facilitate and encourage a close and continuing parent-child relationship between the child and both of the child's parents, the court shall consider the likelihood of each parent and caregiver to honor and facilitate court ordered parenting arrangements and rights, and the court shall further consider any history of either parent or any caregiver denying parenting time to either parent in violation of a court order.

(b) Notwithstanding the provisions of any law to the contrary, the court has jurisdiction to make an initial custody determination regarding a minor child or may modify a prior order of child custody upon finding that the custodial parent has been convicted of or found civilly liable for the intentional and wrongful death of the child's other parent or legal guardian.

(c) As used in this section, "caregiver" has the meaning ascribed to that term in [§ 37-5-501](#).

(d) Nothing in subsections (a) and (c) shall be construed to affect or diminish the constitutional rights of parents that may arise during and are inherent in custody proceedings.

(e) The disability of a parent seeking custody shall not create a presumption for or against awarding custody to such a party but may be a factor to be considered by the court.

#### **Credits**

1995 Pub.Acts, c. 428, § 2, eff. June 12, 1995; 1998 Pub.Acts, c. 1003, § 1, eff. May 18, 1998; 1998 Pub.Acts, c. 1095, §§ 2, 3, eff. July 1, 1998; 2000 Pub.Acts, c. 683, § 2, eff. May 8, 2000; 2007 Pub.Acts, c. 245, §§ 1 to 3, eff. May 24, 2007; 2011 Pub.Acts, c. 433, § 1, eff. June 6, 2011; 2012 Pub.Acts, c. 897, § 1, eff. July 1, 2012; 2013 Pub.Acts, c. 385, § 1, eff. May 14, 2013.

#### **Notes of Decisions (137)**

T. C. A. § 36-6-106, TN ST § 36-6-106

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T. C. A. § 36-6-107

§ 36-6-107. Mediation process; cases involving domestic abuse

Currentness

(a) In any proceeding concerning the custody of a child, if an order of protection issued in or recognized by this state is in effect or if there is a court finding of domestic abuse or any criminal conviction involving domestic abuse within the marriage that is the subject of the proceeding for divorce or separate support and maintenance, the court may order mediation or refer either party to mediation only if:

(1) Mediation is agreed to by the victim of the alleged domestic or family violence;

(2) Mediation is provided by a certified mediator who is trained in domestic and family violence in a specialized manner that protects the safety of the victim; and

(3) The victim is permitted to have in attendance at mediation a supporting person of the victim's choice, including, but not limited to, an attorney or advocate. No victim may provide monetary compensation to a non-attorney advocate for attendance at mediation.

(b) Where the court makes findings of child abuse or child sexual abuse under [§ 36-6-106\(a\)\(8\)](#), the court may only award visitation under circumstances that guarantee the safety of the child. In order to guarantee the safety of the child, the court may order:

(1) That all visits be supervised by a responsible adult or agency, the costs to be primarily borne by the perpetrating parent;

(2) That the perpetrating parent attend and complete a program of counseling or other intervention as a precondition to visitation;

(3) That overnight visitation be prohibited until such time that the perpetrating parent has completed court ordered counseling or intervention, or otherwise demonstrated a change in circumstances that guarantees the safety of the child;

(4) That the address of the child and the non-perpetrating parent be kept confidential; and

(5) Any other conditions the court deems necessary and proper to guarantee the safety of the child.

**Credits**

1997 Pub.Acts, c. 350, § 2, eff. May 30, 1997; 1998 Pub.Acts, c. 1095, § 4, eff. July 1, 1998.

T. C. A. § 36-6-107, TN ST § 36-6-107

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T. C. A. § 36-6-108

§ 36-6-108. Parent relocation

Effective: July 1, 2007

[Currentness](#)

(a) If a parent who is spending intervals of time with a child desires to relocate outside the state or more than one hundred (100) miles from the other parent within the state, the relocating parent shall send a notice to the other parent at the other parent's last known address by registered or certified mail. Unless excused by the court for exigent circumstances, the notice shall be mailed not later than sixty (60) days prior to the move. The notice shall contain the following:

- (1) Statement of intent to move;
- (2) Location of proposed new residence;
- (3) Reasons for proposed relocation; and
- (4) Statement that the other parent may file a petition in opposition to the move within thirty (30) days of receipt of the notice.

(b) Unless the parents can agree on a new visitation schedule, the relocating parent shall file a petition seeking to alter visitation. The court shall consider all relevant factors, including those factors enumerated within subsection (d). The court shall also consider the availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent. The court shall assess the costs of transporting the child for visitation and determine whether a deviation from the child support guidelines should be considered in light of all factors including, but not limited to, additional costs incurred for transporting the child for visitation.

(c) If the parents are actually spending substantially equal intervals of time with the child and the relocating parent seeks to move with the child, the other parent may, within thirty (30) days of receipt of notice, file a petition in opposition to removal of the child. No presumption in favor of or against the request to relocate with the child shall arise. The court shall determine whether or not to permit relocation of the child based upon the best interests of the child. The court shall consider all relevant factors including the following where applicable:

- (1) The extent to which visitation rights have been allowed and exercised;
- (2) Whether the primary residential parent, once out of the jurisdiction, is likely to comply with any new visitation arrangement;

- (3) The love, affection and emotional ties existing between the parents and child;
  - (4) The disposition of the parents to provide the child with food, clothing, medical care, education and other necessary care and the degree to which a parent has been the primary caregiver;
  - (5) The importance of continuity in the child's life and the length of time the child has lived in a stable, satisfactory environment;
  - (6) The stability of the family unit of the parents;
  - (7) The mental and physical health of the parents;
  - (8) The home, school and community record of the child;
  - (9)(A) The reasonable preference of the child if twelve (12) years of age or older;  
  
(B) The court may hear the preference of a younger child upon request. The preferences of older children should normally be given greater weight than those of younger children;
  - (10) Evidence of physical or emotional abuse to the child, to the other parent or to any other person; and
  - (11) The character and behavior of any other person who resides in or frequents the home of a parent and such person's interactions with the child.
- (d)(1) If the parents are not actually spending substantially equal intervals of time with the child and the parent spending the greater amount of time with the child proposes to relocate with the child, the other parent may, within thirty (30) days of receipt of the notice, file a petition in opposition to removal of the child. The other parent may not attempt to relocate with the child unless expressly authorized to do so by the court pursuant to a change of custody or primary custodial responsibility. The parent spending the greater amount of time with the child shall be permitted to relocate with the child unless the court finds:
- (A) The relocation does not have a reasonable purpose;
  - (B) The relocation would pose a threat of specific and serious harm to the child that outweighs the threat of harm to the child of a change of custody; or
  - (C) The parent's motive for relocating with the child is vindictive in that it is intended to defeat or deter visitation rights of the non-custodial parent or the parent spending less time with the child.
- (2) Specific and serious harm to the child includes, but is not limited to, the following:

- (A) If a parent wishes to take a child with a serious medical problem to an area where no adequate treatment is readily available;
  - (B) If a parent wishes to take a child with specific educational requirements to an area with no acceptable education facilities;
  - (C) If a parent wishes to relocate and take up residence with a person with a history of child or domestic abuse or who is currently abusing alcohol or other drugs;
  - (D) If the child relies on the parent not relocating who provides emotional support, nurturing and development such that removal would result in severe emotional detriment to the child;
  - (E) If the custodial parent is emotionally disturbed or dependent such that the custodial parent is not capable of adequately parenting the child in the absence of support systems currently in place in this state, and such support system is not available at the proposed relocation site; or
  - (F) If the proposed relocation is to a foreign country whose public policy does not normally enforce the visitation rights of non-custodial parents, that does not have an adequately functioning legal system or that otherwise presents a substantial risk of specific and serious harm to the child.
- (e) If the court finds one (1) or more of the grounds designated in subsection (d), the court shall determine whether or not to permit relocation of the child based on the best interest of the child. If the court finds it is not in the best interests of the child to relocate as defined herein, but the parent with whom the child resides the majority of the time elects to relocate, the court shall make a custody determination and shall consider all relevant factors including the following where applicable:
- (1) The extent to which visitation rights have been allowed and exercised;
  - (2) Whether the primary residential parent, once out of the jurisdiction, is likely to comply with any new visitation arrangement;
  - (3) The love, affection and emotional ties existing between the parents and child;
  - (4) The disposition of the parents to provide the child with food, clothing, medical care, education and other necessary care and the degree to which a parent has been the primary caregiver;
  - (5) The importance of continuity in the child's life and the length of time the child has lived in a stable, satisfactory environment;
  - (6) The stability of the family unit of the parents;
  - (7) The mental and physical health of the parents;



(8) The home, school and community record of the child;

(9)(A) The reasonable preference of the child if twelve (12) years of age or older;

(B) The court may hear the preference of a younger child upon request. The preferences of older children should normally be given greater weight than those of younger children;

(10) Evidence of physical or emotional abuse to the child, to the other parent or to any other person; and

(11) The character and behavior of any other person who resides in or frequents the home of a parent and such person's interactions with the child.

(f) The court shall consider the availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent. The court shall assess the costs of transporting the child for visitation, and determine whether a deviation from the child support guidelines should be considered in light of all factors including, but not limited to, additional costs incurred for transporting the child for visitation.

(g) Nothing in this section shall prohibit either parent from petitioning the court at any time to address issues, such as, but not limited to, visitation, other than a change of custody related to the move. In the event no petition in opposition to a proposed relocation is filed within thirty (30) days of receipt of the notice, the parent proposing to relocate with the child shall be permitted to do so.

(h) It is the legislative intent that the gender of the parent who seeks to relocate for the reason of career, educational, professional, or job opportunity, or otherwise, shall not be a factor in favor or against the relocation of such parent with the child.

(i) Either parent in a parental relocation matter may recover reasonable attorney fees and other litigation expenses from the other parent in the discretion of the court.

#### **Credits**

[1998 Pub.Acts, c. 910, § 1, eff. May 7, 1998; 2007 Pub.Acts, c. 187, § 7, eff. July 1, 2007.](#)

#### [Notes of Decisions \(22\)](#)

T. C. A. § 36-6-108, TN ST § 36-6-108

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Part 1. General Custody Provisions (Refs & Annos)

T. C. A. § 36-6-109

§ 36-6-109. Arrest, confinement, or detainment of custodial parent; notice of hearing

Effective: August 11, 2010

[Currentness](#)

IF a parent or other suitable person is awarded sole or joint custody of a child by a court pursuant to the provisions of this chapter; AND

IF such parent or person is subsequently arrested, confined or otherwise detained by law enforcement officials or a court of competent jurisdiction; AND

IF, as a result of the arrest, confinement or detainment of such parent or person, such child temporarily comes to the care and custody of the department of children's services or any public or private agency, institution or home providing shelter care as defined in [§ 37-1-102](#); THEN

Prior to the hearing required by [§ 37-1-114](#), such department, agency, institution or home must undertake reasonable efforts to provide adequate notice of the time, place and purpose of such hearing to any other parent or person awarded joint custody or visitation rights by the court at the time the custody of the child was initially established.

#### Credits

[1998 Pub.Acts, c. 1006, § 1, eff. May 18, 1998.](#)

T. C. A. § 36-6-109, TN ST § 36-6-109

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T. C. A. § 36-6-110

§ 36-6-110. Non-custodial parental rights

Effective: April 25, 2011

[Currentness](#)

Except when the juvenile court or other appropriate court finds it not in the best interests of the affected child, upon petition by a noncustodial, biological parent whose parental rights have not been terminated, the court shall grant the rights set forth in [§ 36-6-101\(a\)\(3\)\(A\)](#).

**Credits**

1998 Pub.Acts, c. 1087, § 1, eff. May 19, 1998; 2011 Pub.Acts, c. 119, § 4, eff. April 25, 2011.

[Notes of Decisions \(2\)](#)

T. C. A. § 36-6-110, TN ST § 36-6-110

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T. C. A. § 36-6-111

§ 36-6-111. Stay of order

[Currentness](#)

Notwithstanding any other provision of law to the contrary, in all actions that award, change, or affect the custody of a minor child, an interlocutory, or final judgment by any court in this state shall not be stayed after entry, unless otherwise ordered by that court and upon such terms as to bond or otherwise as it deems proper to secure the other party.

**Credits**

[2004 Pub.Acts, c. 647, § 1, eff. July 1, 2004.](#)

T. C. A. § 36-6-111, TN ST § 36-6-111

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T. C. A. § 36-6-112

§ 36-6-112. Allegations of child abuse; protection and treatment of child

Effective: August 11, 2010

[Currentness](#)

(a) This section shall be known as and may be cited as the “Protective Parent Reform Act.”

(b) If a parent makes a good faith allegation based on a reasonable belief supported by facts that the child is the victim of child abuse, child neglect, or the effects of domestic violence, and if that parent acts lawfully and in good faith in response to that reasonable belief to protect the child or seek treatment for the child, then that parent shall not be deprived of custody, visitation, or contact with the child, or restricted in custody, visitation, or contact, based solely on that belief or the reasonable actions taken based on that belief.

(c) If an allegation that a child is abused is supported by a preponderance of the evidence, then the court shall consider such evidence of abuse in determining the visitation arrangement that is in the best interest of the child, and the court shall not place a child in the custody of a parent who presents a substantial risk of harm to that child.

**Credits**

2004 Pub.Acts, c. 781, § 1, eff. May 28, 2004; 2006 Pub.Acts, c. 694, § 1, eff. May 19, 2006.

T. C. A. § 36-6-112, TN ST § 36-6-112

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T. C. A. § 36-6-113

§ 36-6-113. Temporary modification of custody; mobilized parent in armed forces

Effective: April 14, 2011

[Currentness](#)

(a) As used in this section:

(1) “Armed forces” means the national guard and the reserve components of the armed forces, the United States army, the United States navy, the United States marine corps, the United States coast guard, and the United States air force, and any other branch of the military and naval forces or auxiliaries of the United States or this state; and

(2) “Mobilized parent” means a parent who:

(A) Is a member of the armed forces; and

(B) Is called to active duty or receives orders for duty that is outside the state or country.

(b) A court shall not permanently modify a decree for child custody or visitation solely on the basis that one (1) of the parents is a mobilized parent.

(c)(1) A court of competent jurisdiction shall determine whether a temporary modification to a decree for child custody or visitation is appropriate for a child or children of a mobilized parent and, if appropriate, hold an expedited hearing if the exigencies of the mobilized parent's out-of-state assignment require immediate attention.

(2) The determination under subdivision (c)(1) includes consideration of any and all circumstances that are necessary to maximize the mobilized parent's time and contact with the parent's child that are consistent with the best interest of the child, including, but not limited to:

(A) The ordered length of the mobilized parent's call to active duty;

(B) The mobilized parent's duty station or stations;

(C) The opportunity that the mobilized parent will have for contact with the child through a leave, a pass or other authorized absence from duty;

(D) The contact that the mobilized parent has had with the child before the call to active military duty;

(E) The nature of the military mission, if known; and

(F) Any other factor that the court deems appropriate under the circumstances.

(3) The court shall allow for testimony to be given to the court by electronic means while the military parent is absent from the state if necessary.

(d) Any court-ordered modification of a child custody decree based on the active duty of a mobilized parent shall be temporary and shall revert back to the previous child custody decree at the end of the deployment, as appropriate.

(e) This section shall not limit the power of a court of competent jurisdiction to permanently modify a decree of child custody or visitation in the event that a parent volunteers for successive or frequent duties that remove the parent from the state and that make the parent unavailable to effectively supervise and care for a child.

#### **Credits**

[2008 Pub.Acts, c. 793, § 1, eff. April 23, 2008](#); [2011 Pub.Acts, c. 86, §§ 1, 2, eff. April 14, 2011](#).

T. C. A. § 36-6-113, TN ST § 36-6-113

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T. C. A. § 36-6-114

§ 36-6-114. False allegations of sexual abuse; penalties

Effective: July 1, 2010

[Currentness](#)

Whenever a trial court finds that any person knowingly made a false allegation of sexual abuse in furtherance of litigation, in addition to any other penalties provided for by law or rule, the court may hold the accuser in contempt of court and may order the accuser to pay all litigation expenses, including, but not limited to, reasonable attorney's fees, discretionary costs and other costs incurred by the wrongly accused party in defending against the false allegation.

**Credits**

2010 Pub.Acts, c. 894, § 3, eff. July 1, 2010.

T. C. A. § 36-6-114, TN ST § 36-6-114

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T. C. A. § 36-6-301

§ 36-6-301. Visitation

Currentness

After making an award of custody, the court shall, upon request of the non-custodial parent, grant such rights of visitation as will enable the child and the non-custodial parent to maintain a parent-child relationship unless the court finds, after a hearing, that visitation is likely to endanger the child's physical or emotional health. In granting any such rights of visitation, the court shall designate in which parent's home each minor child shall reside on given days of the year, including provisions for holidays, birthdays of family members, vacations and other special occasions. If the court finds that the non-custodial parent has physically or emotionally abused the child, the court may require that visitation be supervised or prohibited until such abuse has ceased or until there is no reasonable likelihood that such abuse will recur. The court may not order the department of children's services to provide supervision of visitation pursuant to this section except in cases where the department is the petitioner or intervening petitioner in a case in which the custody or guardianship of a child is at issue.

**Credits**

1995 Pub.Acts, c. 428, § 3, eff. June 12, 1995; 1996 Pub.Acts, c. 1079, § 71, eff. May 21, 1996; 1998 Pub.Acts, c. 1050, § 1, eff. July 1, 1998.

Notes of Decisions (12)

T. C. A. § 36-6-301, TN ST § 36-6-301

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T. C. A. § 36-6-302

§ 36-6-302. Grandparents rights

Currentness

- (a)(1)(A) If a child is removed from the custody of the child's parents, guardian or legal custodian; and
- (B) If a child is placed in a licensed foster home, a facility operated by a licensed child care agency, or other home or facility designated or operated by the court, whether such placement is by court order, voluntary placement agreement, surrender of parental rights, or otherwise;
- (2) Then, the grandparents of such child may be granted reasonable visitation rights to the child during such child's minority by the court of competent jurisdiction upon a finding that:
- (A) Such visitation rights would be in the best interest of the minor child;
- (B) The grandparents would adequately protect the child from further abuse or intimidation by the perpetrator or any other family member;
- (C) The grandparents were not implicated in the commission of any alleged act against such child or of their own children that under the law in effect prior to November 1, 1989, would constitute the criminal offense of:
- (i) Aggravated rape under § 39-2-603;
- (ii) Rape under § 39-2-604;
- (iii) Aggravated sexual battery under § 39-2-606;
- (iv) Sexual battery under § 39-2-607;
- (v) Assault with intent to commit rape or attempt to commit rape or sexual battery under § 39-2-608;
- (vi) Crimes against nature under § 39-2-612;

(vii) Incest under § 39-4-306;

(viii) Begetting child on wife's sister under § 39-4-307;

(ix) Use of minor of obscene purposes under § 39-6-1137; or

(x) Promotion of performance including sexual conduct by minor under § 39-6-1138; and

(D) The grandparents are not implicated in the commission of any alleged act against such child or of their own children that under the law in effect on or after November 1, 1989, would constitute the criminal offense of:

(i) Aggravated rape under § 39-13-502;

(ii) Rape under § 39-13-503;

(iii) Aggravated sexual battery under § 39-13-504;

(iv) Sexual battery under § 39-13-505;

(v) Criminal attempt for any of the offenses in subdivisions (a)(2)(D)(i)-(a)(2)(D)(iv) as provided in § 39-12-101;

(vi) Incest under § 39-15-302;

(vii) Sexual exploitation of a minor under § 39-17-1003;

(viii) Aggravated sexual exploitation of a minor under § 39-17-1004; or

(ix) Especially aggravated sexual exploitation of a minor under § 39-17-1005.

(b) This section shall not apply in any case in which the child has been adopted by any person other than a stepparent or other relative of the child.

#### Credits

1971 Pub.Acts, c. 74, §§ 1, 2; 1975 Pub.Acts, c. 330, § 1; 1985 Pub.Acts, c. 341, § 1; 1985 Pub.Acts, c. 478, § 22; 1995 Pub.Acts, c. 428, § 3, eff. June 12, 1995; 1997 Pub.Acts, c. 503, § 1, eff. June 1, 1997; 2000 Pub.Acts, c. 981, § 51, eff. July 1, 2000.

**Formerly** §§ 36-1101, 36-1102; § 36-6-301.

[Notes of Decisions \(14\)](#)

T. C. A. § 36-6-302, TN ST § 36-6-302

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T. C. A. § 36-6-303

§ 36-6-303. Stepparents

Currentness

(a) In a suit for annulment, divorce or separate maintenance where one (1) party is a stepparent to a minor child born to the other party, such stepparent may be granted reasonable visitation rights to such child during the child's minority by the court of competent jurisdiction upon a finding that such visitation rights would be in the best interests of the minor child and that such stepparent is actually providing or contributing towards the support of such child.

(b) Such decree shall remain within the control of the court and be subject to such changes or modification as the exigencies of the case require.

**Credits**

1981 Pub.Acts, c. 243, § 1; [1995 Pub.Acts, c. 428, § 3, eff. June 12, 1995](#).

**Formerly** § 36-837; § 36-6-302.

[Notes of Decisions \(1\)](#)

T. C. A. § 36-6-303, TN ST § 36-6-303

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T. C. A. § 36-6-304

§ 36-6-304. Exposure of minor children to clothing optional beaches

[Currentness](#)

No person who has been granted visitation rights to a child shall, during the child's minority, expose the child to any facility organized or operated as a nudist colony without the consent of the custodial parent. Any court of competent jurisdiction shall have the ability to enforce these provisions and enjoin violations of this section through the full extent of the court's civil and criminal contempt powers.

**Credits**

[1996 Pub.Acts, c. 900, § 1, eff. May 8, 1996.](#)

T. C. A. § 36-6-304, TN ST § 36-6-304

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T. C. A. § 36-6-305

§ 36-6-305. Mediation process; cases involving domestic abuse

Currentness

In any proceeding concerning the visitation of a child, if an order of protection issued in or recognized by this state is in effect or if there is a court finding of domestic abuse or any criminal conviction involving domestic abuse within the marriage that is the subject of the proceeding for divorce or separate support and maintenance, the court may order mediation or refer either party to mediation only if:

- (1) Mediation is agreed to by the victim of the alleged domestic or family violence;
- (2) Mediation is provided by a certified mediator who is trained in domestic and family violence in a specialized manner that protects the safety of the victim; and
- (3) The victim is permitted to have in attendance at mediation a supporting person of the victim's choice, including, but not limited to, an attorney or advocate. No victim may provide monetary compensation to a non-attorney advocate for attendance at mediation.

**Credits**

1997 Pub.Acts, c. 350, § 3, eff. May 30, 1997.

T. C. A. § 36-6-305, TN ST § 36-6-305

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T. C. A. § 36-6-306

§ 36-6-306. Grandparent visitation rights; deceased, divorced or missing parents

Effective: May 26, 2010

[Currentness](#)

(a) Any of the following circumstances, when presented in a petition for grandparent visitation to the circuit, chancery, general sessions courts with domestic relations jurisdiction or juvenile court in matters involving children born out of wedlock of the county in which the petitioned child currently resides, necessitates a hearing if such grandparent visitation is opposed by the custodial parent or parents:

- (1) The father or mother of an unmarried minor child is deceased;
  - (2) The child's father or mother are divorced, legally separated, or were never married to each other;
  - (3) The child's father or mother has been missing for not less than six (6) months;
  - (4) The court of another state has ordered grandparent visitation;
  - (5) The child resided in the home of the grandparent for a period of twelve (12) months or more and was subsequently removed from the home by the parent or parents (this grandparent-grandchild relationship establishes a rebuttable presumption that denial of visitation may result in irreparable harm to the child); or
  - (6) The child and the grandparent maintained a significant existing relationship for a period of twelve (12) months or more immediately preceding severance of the relationship, this relationship was severed by the parent or parents for reasons other than abuse or presence of a danger of substantial harm to the child, and severance of this relationship is likely to occasion substantial emotional harm to the child.
- (b)(1) In considering a petition for grandparent visitation, the court shall first determine the presence of a danger of substantial harm to the child. Such finding of substantial harm may be based upon cessation of the relationship between an unmarried minor child and the child's grandparent if the court determines, upon proper proof, that:
- (A) The child had such a significant existing relationship with the grandparent that loss of the relationship is likely to occasion severe emotional harm to the child;



(B) The grandparent functioned as a primary caregiver such that cessation of the relationship could interrupt provision of the daily needs of the child and thus occasion physical or emotional harm; or

(C) The child had a significant existing relationship with the grandparent and loss of the relationship presents the danger of other direct and substantial harm to the child.

(2) For purposes of this section, a grandparent shall be deemed to have a significant existing relationship with a grandchild if:

(A) The child resided with the grandparent for at least six (6) consecutive months;

(B) The grandparent was a full-time caretaker of the child for a period of not less than six (6) consecutive months; or

(C) The grandparent had frequent visitation with the child who is the subject of the suit for a period of not less than one (1) year.

(3) A grandparent is not required to present the testimony or affidavit of an expert witness in order to establish a significant existing relationship with a grandchild or that the loss of the relationship is likely to occasion severe emotional harm to the child. Instead, the court shall consider whether the facts of the particular case would lead a reasonable person to believe that there is a significant existing relationship between the grandparent and grandchild or that the loss of the relationship is likely to occasion severe emotional harm to the child.

(4) For the purposes of this section, if the child's parent is deceased and the grandparent seeking visitation is the parent of that deceased parent, there shall be a rebuttable presumption of substantial harm to the child based upon the cessation of the relationship between the child and grandparent.

(c) Upon an initial finding of danger of substantial harm to the child, the court shall then determine whether grandparent visitation would be in the best interests of the child based upon the factors in § 36-6-307. Upon such determination, reasonable visitation may be ordered.

(d)(1) Notwithstanding the provisions of § 36-1-121, if a relative or stepparent adopts a child, the provisions of this section apply.

(2) If a person other than a relative or a stepparent adopts a child, any visitation rights granted pursuant to this section before the adoption of the child shall automatically end upon such adoption.

(e) Notwithstanding any provision of law to the contrary, as used in this section and in § 36-6-307, with regard to the petitioned child, the word "grandparent" includes, but is not limited to:

(1) A biological grandparent;

(2) The spouse of a biological grandparent; or

(3) A parent of an adoptive parent.

#### **Credits**

1997 Pub.Acts, c. 503, § 2, eff. June 1, 1997; 2000 Pub.Acts, c. 891, § 1, eff. June 14, 2000; 2001 Pub.Acts, c. 440, § 1, eff. July 18, 2001; 2003 Pub.Acts, c. 79, § 1, eff. July 1, 2003; 2004 Pub.Acts, c. 452, § 1, eff. March 25, 2004; 2004 Pub.Acts, c. 691, § 1, eff. May 18, 2004; 2004 Pub.Acts, c. 874, § 1, eff. June 8, 2004; 2007 Pub.Acts, c. 22, § 1, eff. July 1, 2007; 2010 Pub.Acts, c. 957, § 1, eff. May 26, 2010.

#### [Notes of Decisions \(12\)](#)

T. C. A. § 36-6-306, TN ST § 36-6-306

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T. C. A. § 36-6-307

§ 36-6-307. Grandparent visitation; best interests of the child

Effective: July 1, 2011

[Currentness](#)

In determining the best interests of the child under [§ 36-6-306](#), the court shall consider all pertinent matters, including, but not necessarily limited to, the following:

- (1) The length and quality of the prior relationship between the child and the grandparent and the role performed by the grandparent;
- (2) The existing emotional ties of the child to the grandparent;
- (3) The preference of the child if the child is determined to be of sufficient maturity to express a preference;
- (4) The effect of hostility between the grandparent and the parent of the child manifested before the child, and the willingness of the grandparent, except in case of abuse, to encourage a close relationship between the child and the parent or parents, or guardian or guardians of the child;
- (5) The good faith of the grandparent in filing the petition;
- (6) If the parents are divorced or separated, the time-sharing arrangement that exists between the parents with respect to the child;
- (7) If one (1) parent is deceased or missing, the fact that the grandparents requesting visitation are the parents of the deceased or missing person;
- (8) Any unreasonable deprivation of the grandparent's opportunity to visit with the child by the child's parents or guardian, including denying visitation of the minor child to the grandparent for a period exceeding ninety (90) days;
- (9) Whether the grandparent is seeking to maintain a significant existing relationship with the child;
- (10) Whether awarding grandparent visitation would interfere with the parent-child relationship; and

(11) Any court finding that the child's parent or guardian is unfit.

**Credits**

1997 Pub.Acts, c. 503, § 2, eff. June 1, 1997; 2000 Pub.Acts, c. 891, § 2, eff. June 14, 2000; 2011 Pub.Acts, c. 500, § 1, eff. July 1, 2011.

**Notes of Decisions (3)**

T. C. A. § 36-6-307, TN ST § 36-6-307

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T. C. A. § 36-6-308

§ 36-6-308. Temporary assignment of visitation rights; active military service

Effective: April 19, 2012

[Currentness](#)

(a) If a parent has been granted court-ordered visitation with that parent's minor child or children, and if that parent has been called to active duty service in the armed forces and the active duty service requires the parent to be out of the state for a period of at least ninety (90) days, then that parent may petition the court with jurisdiction of the order granting visitation for a modification of that order for the temporary assignment of that parent's visitation rights to a legal or biological relative or relatives. The parent shall be joined in the petition by the relative or relatives to whom the parent is seeking to assign visitation rights. The petition shall include a proposed visitation schedule with the relative or relatives that shall not exceed the visitation time granted to the parent at the time of filing the petition.

(b) The court may grant the petitioner's request for assignment of visitation if the court finds that visitation on terms that the court deems appropriate would be in the best interest of the child.

(c) An order granting an assignment of visitation rights pursuant to this section shall terminate immediately upon the termination of the petitioner's term of out of state active duty service in the armed forces.

(d) For purposes of this section, "armed forces" means the national guard and the reserve components of the armed forces, the United States army, the United States navy, the United States marine corps, the United States coast guard, and the United States air force, and any other branch of the military and naval forces or auxiliaries of the United States or this state.

**Credits**

2009 Pub.Acts, c. 442, § 1, eff. July 1, 2009; 2012 Pub.Acts, c. 770, §§ 1, 2, eff. April 19, 2012.

[Notes of Decisions \(2\)](#)

T. C. A. § 36-6-308, TN ST § 36-6-308

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T. C. A. § 36-6-401

§ 36-6-401. Findings

Currentness

(a) Parents have the responsibility to make decisions and perform other parental duties necessary for the care and growth of their minor children. In any proceeding between parents under this chapter, the best interests of the child shall be the standard by which the court determines and allocates the parties' parental responsibilities. The general assembly recognizes the detrimental effect of divorce on many children and that divorce, by its nature, means that neither parent will have the same access to the child as would have been possible had they been able to maintain an intact family. The general assembly finds the need for stability and consistency in children's lives. The general assembly also has an interest in educating parents concerning the impact of divorce on children. The general assembly recognizes the fundamental importance of the parent-child relationship to the welfare of the child, and the relationship between the child and each parent should be fostered unless inconsistent with the child's best interests. The best interests of the child are served by a parenting arrangement that best maintains a child's emotional growth, health and stability, and physical care.

(b) The general assembly finds that mothers and fathers in families are the backbone of this state and this nation. They teach children right from wrong, respect for others, and the value of working hard to make a good life for themselves and for their future families. Most children do best when they receive the emotional and financial support of both parents. The general assembly finds that a different approach to dispute resolution in child custody and visitation matters is useful.

**Credits**

1997 Pub.Acts, c. 557, § 1, eff. June 1, 1997; 1998 Pub.Acts, c. 1098, §§ 71, 74, eff. May 19, 1998; 2000 Pub.Acts, c. 889, § 1, eff. Jan. 1, 2001.

Notes of Decisions (5)

T. C. A. § 36-6-401, TN ST § 36-6-401

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West's Tennessee Code Annotated  
Title 36. Domestic Relations  
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Part 4. Parenting Plans

T. C. A. § 36-6-402

§ 36-6-402. Definitions

Effective: August 11, 2010

[Currentness](#)

As used in this part, unless the context requires otherwise:

(1) “Dispute resolution” means the mediation process or alternative dispute resolution process in accordance with Supreme Court Rule 31 unless the parties agree otherwise. For the purposes of this part, such process may include: mediation, the neutral party to be chosen by the parties or the court; arbitration, the neutral party to be chosen by the parties or the court; or a mandatory settlement conference presided over by the court or a special master.

(2) “Parenting responsibilities” means those aspects of the parent-child relationship in which the parent makes decisions and performs duties necessary for the care and growth of the child. “Parenting responsibilities,” the establishment of which is the objective of a permanent parenting plan, include:

(A) Providing for the child's emotional care and stability, including maintaining a loving, stable, consistent, and nurturing relationship with the child and supervising the child to encourage and protect emotional, intellectual, moral, and spiritual development;

(B) Providing for the child's physical care, including attending to the daily needs of the child, such as feeding, clothing, physical care, and grooming, supervision, health care, and day care, and engaging in other activities that are appropriate to the developmental level of the child and that are within the social and economic circumstances of the particular family;

(C) Providing encouragement and protection of the child's intellectual and moral development, including attending to adequate education for the child, including remedial or other education essential to the best interests of the child;

(D) Assisting the child in developing and maintaining appropriate interpersonal relationships;

(E) Exercising appropriate judgment regarding the child's welfare, consistent with the child's developmental level and the family's social and economic circumstances; and

(F) Providing any financial security and support of the child in addition to child support obligations;

(3) “Permanent parenting plan” means a written plan for the parenting and best interests of the child, including the allocation of parenting responsibilities and the establishment of a residential schedule, as well as an award of child support consistent with chapter 5 of this title;

(4) “Primary residential parent” means the parent with whom the child resides more than fifty percent (50%) of the time;

(5) “Residential schedule” is the schedule of when the child is in each parent's physical care, and it shall designate the primary residential parent; in addition, the residential schedule shall designate in which parent's home each minor child shall reside on given days of the year, including provisions for holidays, birthdays of family members, vacations, and other special occasions, consistent with the criteria of this part; provided, that nothing contained herein shall be construed to modify any provision of § 36-6-108; and

(6) “Temporary parenting plan” means a plan for the temporary parenting and the best interests of the child, including the establishment of a temporary residential schedule, and the establishment of temporary financial support designed to maintain the financial status quo to the extent possible, consistent with chapter 5 of this title, and the guidelines thereunder.

#### **Credits**

1997 Pub.Acts, c. 557, § 1, eff. June 1, 1997; 2000 Pub.Acts, c. 889, § 1, eff. Jan. 1, 2001.

#### **Notes of Decisions (2)**

T. C. A. § 36-6-402, TN ST § 36-6-402

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T. C. A. § 36-6-403

§ 36-6-403. Requirement of and procedure for determining temporary parenting plan

Effective: August 11, 2010

[Currentness](#)

Except as may be specifically provided otherwise herein, a temporary parenting plan shall be incorporated in any temporary order of the court in actions for absolute divorce, legal separation, annulment, or separate maintenance involving a minor child. A temporary parenting plan shall comply with those provisions for a permanent parenting plan under [§ 36-6-404\(a\)](#) that are applicable for the time frame and shall include a residential schedule as described in [§ 36-6-404\(b\)](#). The court shall approve a temporary parenting plan as follows:

- (1) If the parties can agree to a temporary parenting plan, no written temporary parenting plan is required to be entered; or
- (2) If the parties cannot agree to a temporary parenting plan, either or both parties may request the court to order dispute resolution. The court may immediately order the parties to participate in dispute resolution to establish a temporary parenting plan unless one (1) of the restrictions in [§ 36-6-406\(a\)](#) exists. If dispute resolution is not available, either party may request and the court may order an expedited hearing to establish a temporary parenting plan. In either mediation or in a hearing before the court each party shall submit a proposed temporary parenting plan and a verified statement of income as defined by title 36, chapter 5, and a verified statement that the plan is proposed in good faith and is in the best interest of the child. If only one (1) party files a proposed temporary parenting plan in compliance with this section, that party may petition the court for an order adopting that party's plan by default, upon a finding by the court that the plan is in the child's best interest. In determining whether the proposed temporary parenting plan serves the best interests of the child, the court shall be governed by the allocation of residential time and support obligations contained in the child support guidelines and related provisions in chapter 5 of this title.

**Credits**

[1997 Pub.Acts, c. 557, § 1, eff. June 1, 1997; 2000 Pub.Acts, c. 889, § 1, eff. Jan. 1, 2001.](#)

**Formerly** § 36-6-407.

T. C. A. § 36-6-403, TN ST § 36-6-403

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T. C. A. § 36-6-404

§ 36-6-404. Requirement of and procedure for determining permanent parenting plan

Effective: August 11, 2010

[Currentness](#)

(a) Any final decree or decree of modification in an action for absolute divorce, legal separation, annulment, or separate maintenance involving a minor child shall incorporate a permanent parenting plan; provided, however, that this part shall be inapplicable to parties who were divorced prior to July 1, 1997, and thereafter return to court to enter an agreed order modifying terms of the previous court order. A permanent parenting plan shall:

(1) Provide for the child's changing needs as the child grows and matures, in a way that minimizes the need for further modifications to the permanent parenting plan;

(2) Establish the authority and responsibilities of each parent with respect to the child, consistent with the criteria in this part;

(3) Minimize the child's exposure to harmful parental conflict;

(4) Provide for a process for dispute resolution, before court action, unless precluded or limited by [§ 36-6-406](#); provided, that state agency cases are excluded from the requirement of dispute resolution as to any child support issue involved. In the process for dispute resolution:

(A) Preference shall be given to carrying out the parenting plan;

(B) The parents shall use the designated process to resolve disputes relating to the implementation of the plan;

(C) A written record shall be prepared of any agreement reached in mediation, arbitration, or settlement conference and shall be provided to each party to be drafted into a consent order of modification;

(D) If the court finds that a parent willfully failed to appear at a scheduled dispute resolution process without good reason, the court may, upon motion, award attorney fees and financial sanctions to the prevailing parent;

(E) The provisions of this subsection (a) shall be set forth in the decree; and

(F) Nothing in this part shall preclude court action, if required to protect the welfare of the child or a party;

(5) Allocate decision-making authority to one (1) or both parties regarding the child's education, health care, extracurricular activities, and religious upbringing. The parties may incorporate an agreement related to the care and growth of the child in these specified areas, or in other areas, into their plan, consistent with the criteria in this part. Regardless of the allocation of decision making in the parenting plan, the parties may agree that either parent may make emergency decisions affecting the health or safety of the child;

(6) Provide that each parent may make the day-to-day decisions regarding the care of the child while the child is residing with that parent;

(7) Provide that when mutual decision making is designated but cannot be achieved, the parties shall make a good-faith effort to resolve the issue through the appropriate dispute resolution process, subject to the exception set forth in subdivision (a)(4)(F);

(8) Require the obligor to report annually on a date certain to the obligee, and the department of human services or its contractor in Title IV-D cases, on a form provided by the court, the obligor's income as defined by the child support guidelines and related provisions contained in chapter 5 of this title; and

(9) Specify that if the driver license of a parent is currently expired, canceled, suspended or revoked or if the parent does not possess a valid driver license for any other reason, the parent shall make acceptable transportation arrangements as may be necessary to protect and ensure the health, safety and welfare of the child when such child is in the custody of such parent.

(b) Any permanent parenting plan shall include a residential schedule as defined in [§ 36-6-402](#). The court shall make residential provisions for each child, consistent with the child's developmental level and the family's social and economic circumstances, which encourage each parent to maintain a loving, stable, and nurturing relationship with the child. The child's residential schedule shall be consistent with this part. If the limitations of [§ 36-6-406](#) are not dispositive of the child's residential schedule, the court shall consider the following factors:

(1) The parent's ability to instruct, inspire, and encourage the child to prepare for a life of service, and to compete successfully in the society that the child faces as an adult;

(2) The relative strength, nature, and stability of the child's relationship with each parent, including whether a parent has taken greater responsibility for performing parenting responsibilities relating to the daily needs of the child;

(3) The willingness and ability of each of the parents to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent, consistent with the best interests of the child;

(4) Willful refusal to attend a court-ordered parent education seminar may be considered by the court as evidence of that parent's lack of good faith in these proceedings;

(5) The disposition of each parent to provide the child with food, clothing, medical care, education and other necessary care;

- (6) The degree to which a parent has been the primary caregiver, defined as the parent who has taken the greater responsibility for performing parental responsibilities;
  - (7) The love, affection, and emotional ties existing between each parent and the child;
  - (8) The emotional needs and developmental level of the child;
  - (9) The character and physical and emotional fitness of each parent as it relates to each parent's ability to parent or the welfare of the child;
  - (10) The child's interaction and interrelationships with siblings and with significant adults, as well as the child's involvement with the child's physical surroundings, school, or other significant activities;
  - (11) The importance of continuity in the child's life and the length of time the child has lived in a stable, satisfactory environment;
  - (12) Evidence of physical or emotional abuse to the child, to the other parent or to any other person;
  - (13) The character and behavior of any other person who resides in or frequents the home of a parent and such person's interactions with the child;
  - (14) The reasonable preference of the child if twelve (12) years of age or older. The court may hear the preference of a younger child upon request. The preference of older children should normally be given greater weight than those of younger children;
  - (15) Each parent's employment schedule, and the court may make accommodations consistent with those schedules; and
  - (16) Any other factors deemed relevant by the court.
- (c) The court shall approve a permanent parenting plan as follows:
- (1) Upon agreement of the parties:
    - (A) With the entry of a final decree or judgment; or
    - (B) With a consent order to modify a final decree or judgment involving a minor child;
  - (2) If the parties cannot reach agreement on a permanent parenting plan, upon the motion of either party, or upon its own motion, the court may order appropriate dispute resolution proceedings pursuant to Rule 31 of the Rules of the Supreme Court, to determine a permanent parenting plan; or

(3) If the parties have not reached agreement on a permanent parenting plan on or before forty-five (45) days before the date set for trial, each party shall file and serve a proposed permanent parenting plan, even though the parties may continue to mediate or negotiate. Failure to comply by a party may result in the court's adoption of the plan filed by the opposing party if the court finds such plan to be in the best interests of the child. In determining whether the proposed plan is in the best interests of the child, the court may consider the allocation of residential time and support obligations contained in the child support guidelines and related provisions contained in chapter 5 of this title. Each parent submitting a proposed permanent parenting plan shall attach a verified statement of income pursuant to the child support guidelines and related provisions contained in chapter 5 of this title, and a verified statement that the plan is proposed in good faith and is in the best interest of the child.

(d) The administrative office of the courts shall develop a “parenting plan” form<sup>1</sup> that shall be used consistently by each court within the state that approves parenting plans pursuant to § 36-6-403 or 36-6-404 on and after July 1, 2005. The administrative office of the courts shall be responsible for distributing such form for the use of those courts no later than June 1, 2005. The administrative office of the courts shall be responsible for updating such form as it deems necessary, in consultation with the Tennessee family law commission, the domestic relations committee of the Tennessee judicial conference, and other knowledgeable persons.

#### Credits

1997 Pub.Acts, c. 557, § 1, eff. June 1, 1997; 2000 Pub.Acts, c. 889, § 1, eff. Jan. 1, 2001; 2002 Pub.Acts, c. 677, § 1, eff. April 24, 2002; 2003 Pub.Acts, c. 243, § 1, eff. June 3, 2003; 2004 Pub.Acts, c. 864, § 1, eff. July 1, 2004; 2005 Pub.Acts, c. 127, § 1, eff. May 4, 2005.

**Formerly** § 36-6-410.

#### Notes of Decisions (7)

#### Footnotes

<sup>1</sup> Contact the Administrative Office of the Courts at 511 Union Street, Suite 600, Nashville, TN 37219; 1-615-741-2687; 1-800-448-7970; or [www.tsc.state.tn.us](http://www.tsc.state.tn.us).

T. C. A. § 36-6-404, TN ST § 36-6-404

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T. C. A. § 36-6-405

§ 36-6-405. Modifying permanent parenting plans

Effective: July 1, 2010

[Currentness](#)

(a) In a proceeding for a modification of a permanent parenting plan, a proposed parenting plan shall be filed and served with the petition for modification and with the response to the petition for modification. Such plan is not required if the modification pertains only to child support. The obligor parent's proposed parenting plan shall be accompanied by a verified statement of that party's income pursuant to the child support guidelines and related provisions contained in chapter 5 of this title. The process established by [§ 36-6-404\(b\)](#) shall be used to establish an amended permanent parenting plan or final decree or judgment.

(b) In a proceeding for a modification of a permanent parenting plan, the existing residential schedule shall not be modified prior to a final hearing unless the parents agree to the modification or the court finds that the child will be subject to a likelihood of substantial harm absent the temporary modification. If a temporary modification of the existing residential schedule is granted ex parte, the respondent shall be entitled to an expedited hearing within fifteen (15) days of the entry of the temporary modification order.

(c) Title IV-D child support cases involving the department of human services or any of its public or private contractors shall be bifurcated from the remaining parental responsibility issues. Separate orders shall be issued concerning Title IV-D issues, which shall not be contained in, or part of, temporary, permanent or modified parenting plans. The department and its public or private contractors shall not be required to participate in mediation or dispute resolution pursuant to this part.

**Credits**

[1997 Pub.Acts, c. 557, § 1, eff. June 1, 1997; 2000 Pub.Acts, c. 889, § 1, eff. Jan. 1, 2001; 2010 Pub.Acts, c. 956, § 1, eff. July 1, 2010.](#)

**Formerly** § 36-6-409.

[Notes of Decisions \(1\)](#)

T. C. A. § 36-6-405, TN ST § 36-6-405

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T. C. A. § 36-6-406

§ 36-6-406. Restrictions in temporary or permanent parenting plans

Effective: August 11, 2010

[Currentness](#)

(a) The permanent parenting plan and the mechanism for approval of the permanent parenting plan shall not utilize dispute resolution, and a parent's residential time as provided in the permanent parenting plan or temporary parenting plan shall be limited if it is determined by the court, based upon a prior order or other reliable evidence, that a parent has engaged in any of the following conduct:

(1) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting responsibilities; or

(2) Physical or sexual abuse or a pattern of emotional abuse of the parent, child or of another person living with that child as defined in [§ 36-3-601](#).

(b) The parent's residential time with the child shall be limited if it is determined by the court, based upon a prior order or other reliable evidence, that the parent resides with a person who has engaged in physical or sexual abuse or a pattern of emotional abuse of the parent, child or of another person living with that child as defined in [§ 36-3-601](#).

(c) If a parent has been convicted as an adult of a sexual offense under [§ 39-15-302](#), title 39, chapter 17, part 10, or [§§ 39-13-501--39-13-511](#), or has been found to be a sexual offender under title 39, chapter 13, part 7, the court shall restrain the parent from contact with a child that would otherwise be allowed under this part. If a parent resides with an adult who has been convicted, or with a juvenile who has been adjudicated guilty of a sexual offense under [§ 39-15-302](#), title 39, chapter 17, part 10, or [§§ 39-13-501--39-13-511](#), or who has been found to be a sexual offender under title 39, chapter 13, part 7, the court shall restrain that parent from contact with the child unless the contact occurs outside the adult's or juvenile's presence and sufficient provisions are established to protect the child.

(d) A parent's involvement or conduct may have an adverse effect on the child's best interest, and the court may preclude or limit any provisions of a parenting plan, if any of the following limiting factors are found to exist after a hearing:

(1) A parent's neglect or substantial nonperformance of parenting responsibilities;

(2) An emotional or physical impairment that interferes with the parent's performance of parenting responsibilities as defined in [§ 36-6-402](#);

(3) An impairment resulting from drug, alcohol, or other substance abuse that interferes with the performance of parenting responsibilities;

(4) The absence or substantial impairment of emotional ties between the parent and the child;

(5) The abusive use of conflict by the parent that creates the danger of damage to the child's psychological development;

(6) A parent has withheld from the other parent access to the child for a protracted period without good cause;

(7) A parent's criminal convictions as they relate to such parent's ability to parent or to the welfare of the child; or

(8) Such other factors or conduct as the court expressly finds adverse to the best interests of the child.

(e) In entering a permanent parenting plan, the court shall not draw any presumptions from the provisions of the temporary parenting plan.

(f)(1) In all Title IV-D child or spousal support cases in which payment of support is to be made by income assignment, or otherwise, and in all cases where payments made by income assignment based upon support orders entered on or after January 1, 1994, that are not Title IV-D support cases but must be made to the central collection and disbursement unit as provided by § 36-5-116, and, except as may otherwise be allowed by § 36-5-501(a)(2)(B), the court shall only approve a temporary or permanent parenting plan involving the payment of support that complies with the requirements for central collection and disbursement as required by § 36-5-116. Prior to approval of a parenting plan in which payments are to be made directly to the spouse or the court clerk or to some other person or entity, there shall be filed with the plan presented to the court a written certification, under oath if filed by a party, or signed by the party's counsel, stating whether the case for which the plan is to be approved is a Title IV-D support case subject to enforcement by the department of human services or is otherwise subject to collection through the department's central collection and disbursement unit established by § 36-5-116.

(2) Any provision of any parenting plan, agreement or court order providing for any other payment procedure contrary to the requirements of § 36-5-116, except as may otherwise be allowed by § 36-5-501(a)(2)(B), whether or not approved by the court, shall be void and of no effect. No credit for support payments shall be given by the court, the court clerk or the department of human services for child or spousal support payments required by the support order that are made in contravention of such requirements; provided, however, the department may make any necessary adjustments to the balances owed to account for changes in the Title IV-D or central collection and disbursement status of the support case.

(g) Forms used by parties as parenting plans or adopted by the court for their use shall conform to all substantive language requirements established by the administrative office of the courts at such time as parenting plan forms<sup>1</sup> are promulgated and approved by that office.

#### **Credits**

1997 Pub.Acts, c. 557, § 1, eff. June 1, 1997; 2000 Pub.Acts, c. 889, § 1, eff. Jan. 1, 2001; 2001 Pub.Acts, c. 447, § 18, eff. July 18, 2001.



**Formerly** § 36-6-412.

[Notes of Decisions \(1\)](#)

Footnotes

[1](#) Contact the Administrative Office of the Courts at 511 Union Street, Suite 600, Nashville, TN 37219; 1-615-741-2687; 1-800-448-7970; or [www.tsc.state.tn.us](http://www.tsc.state.tn.us).

T. C. A. § 36-6-406, TN ST § 36-6-406

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T. C. A. § 36-6-407

§ 36-6-407. Allocation of parenting responsibilities

Effective: July 1, 2009

[Currentness](#)

(a) The court shall approve agreements of the parties allocating parenting responsibilities, or specifying rules, if it finds that:

(1) The agreement is consistent with any limitations on a parent's decision-making authority mandated by [§ 36-6-406](#);

(2) The agreement is knowing and voluntary; and

(3) The agreement is in the best interest of the child.

(b) The court may consider a parent's refusal, without just cause, to attend a court-ordered parental educational seminar in making an award of sole decision-making authority to the other parent. The court shall order sole decision-making to one (1) parent when it finds that:

(1) A limitation on the other parent's decision-making authority is mandated by [§ 36-6-406](#);

(2) Both parents are opposed to mutual decision making; or

(3) One (1) parent is opposed to mutual decision making, and such opposition is reasonable in light of the parties' inability to satisfy the criteria for mutual decision-making authority.

(c) Except as provided in subsections (a) and (b), the court shall consider the following criteria in allocating decision-making authority:

(1) The existence of a limitation under [§ 36-6-406](#);

(2) The history of participation of each parent in decision making in each of the following areas: physical care, emotional stability, intellectual and moral development, health, education, extracurricular activities, and religion; and whether each parent attended a court ordered parent education seminar;

(3) Whether the parents have demonstrated the ability and desire to cooperate with one another in decision making regarding the child in each of the following areas: physical care, emotional stability, intellectual and moral development, health, education, extracurricular activities, and religion; and

(4) The parents' geographic proximity to one another, to the extent that it affects their ability to make timely mutual decisions.

(d) When determining whether an agreement allocating parenting responsibilities is in the best interest of the child pursuant to subdivision (a)(3), the court may consider any evidence submitted by a guardian ad litem appointed for the child, if one has been appointed by the court, subject to the Tennessee rules of the supreme court relative to guidelines for guardians ad litem appointed for minor children in divorce proceedings and the Tennessee rules of evidence.

#### **Credits**

1997 Pub.Acts, c. 557, § 1, eff. June 1, 1997; 2000 Pub.Acts, c. 889, § 1, eff. Jan. 1, 2001; 2009 Pub.Acts, c. 563, §§ 1, 2, eff. July 1, 2009.

**Formerly** § 36-6-411.

#### [Notes of Decisions \(1\)](#)

T. C. A. § 36-6-407, TN ST § 36-6-407

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T. C. A. § 36-6-408

§ 36-6-408. Parent educational seminar

Currentness

(a) In an action where a permanent parenting plan is or will be entered, each parent shall attend a parent educational seminar as soon as possible after the filing of the complaint. The seminar shall educate parents concerning how to protect and enhance the child's emotional development and informing the parents regarding the legal process. The seminar shall also include a discussion of alternative dispute resolution, marriage counseling, the judicial process, and common perpetrator attitudes and conduct involving domestic violence. The program may be divided into sessions, which in the aggregate shall not be less than four (4) hours in duration. The seminar shall be educational in nature and not designed for individual therapy. The minor children shall be excluded from attending these sessions. The requirement of attendance at such a seminar may be waived upon motion by either party and the agreement of the court upon the showing of good cause for such relief.

(b) The fees or costs of the educational sessions under this section, which shall be reasonable, shall be borne by the parties and may be assessed by the court as it deems equitable. Such fees may be waived for indigent persons.

(c) No court shall deny the granting of a divorce from the bonds of matrimony for failure of a party or both parties to attend the educational session.

**Credits**

1997 Pub.Acts, c. 557, § 1, eff. June 1, 1997; 2000 Pub.Acts, c. 889, § 1, eff. Jan. 1, 2001.

**Formerly** § 36-6-405.

Notes of Decisions (2)

T. C. A. § 36-6-408, TN ST § 36-6-408

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T. C. A. § 36-6-409

§ 36-6-409. Procedures and restrictions applicable to dispute resolution

Effective: August 11, 2010

[Currentness](#)

The following procedures and restrictions are applicable to the use of the dispute resolution process under this part:

- (1) Each neutral party, the court, or the special master shall apply or, in the case of mediation, assist the parties to uphold as a standard for making decisions in mediation, the criteria in this part. Nothing in this part shall be construed to prevent a party from having the party's attorney present at a mediation or other dispute resolution procedure;
- (2) The Tennessee rules of evidence do not apply in any mediation or alternative dispute resolution process; the neutral party may rely upon evidence submitted that reasonably prudent persons would rely upon in the conduct of their affairs;
- (3) When dispute resolution is utilized in this chapter, it shall be preceded by a pretrial conference and the attendance by parents at the parent educational seminar set forth in [§ 36-6-408](#);
- (4) The court shall not order a dispute resolution process, except court action, if the court:
  - (A) Finds that any limiting factor under [§ 36-6-406](#) applies;
  - (B) Finds that either parent is unable to afford the cost of the proposed dispute resolution process, unless such cost is waived or subsidized by the state;
  - (C) Enters a default judgment against the defendant; or
  - (D) Preempts such process upon motion of either party for just cause;
- (5) If an order of protection issued in or recognized by this state is in effect or if there is a court finding of domestic abuse or criminal conviction involving domestic abuse within the marriage that is the subject of the proceeding for divorce or separate support and maintenance, the court may order mediation or refer the parties to mediation only if:
  - (A) Mediation is agreed to by the victim of the alleged domestic or family violence;

(B) Mediation is provided by a certified mediator who is trained in domestic and family violence in a specialized manner that protects the safety of the victim; and

(C) The victim is permitted to have in attendance at mediation a supporting person of the victim's choice, including, but not limited to, an attorney or advocate. No victim may provide monetary compensation to a non-attorney advocate for attendance at mediation. The other party may also have in attendance at mediation a supporting person of such party's choice, including, but not limited to, an attorney or advocate;

(6) If a dispute resolution process is not precluded or limited, then in designating such a process the court shall consider all relevant factors, including:

(A) Differences between the parents that would substantially inhibit their effective participation in any designated process;

(B) The parents' wishes or agreements and, if the parents have entered into agreements, whether the agreements were made knowingly and voluntarily; and

(C) The financial circumstances of the parties to pay for alternative dispute resolution processes where court sanctioned alternative dispute resolution programs are unavailable.

#### **Credits**

[2000 Pub.Acts, c. 889, § 1, eff. Jan. 1, 2001](#); [2002 Pub.Acts, c. 651, § 7, eff. April 24, 2002](#).

T. C. A. § 36-6-409, TN ST § 36-6-409

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T. C. A. § 36-6-410

§ 36-6-410. Designation of custody for the purpose of other state and federal statutes

Currentness

Solely for the purpose of all other state and federal statutes and any applicable policies of insurance that require a designation or determination of custody, a parenting plan shall designate the parent with whom the child is scheduled to reside a majority of the time as the custodian of the child; provided, that this designation shall not affect either parent's rights and responsibilities under the parenting plan. In the absence of such a designation, the parent with whom the child is scheduled to reside a majority of the time shall be deemed to be the custodian for the purposes of such federal and state statutes.

**Credits**

1997 Pub.Acts, c. 557, § 1, eff. June 1, 1997; 2000 Pub.Acts, c. 889, § 1, eff. Jan. 1, 2001.

**Formerly** § 36-6-413.

T. C. A. § 36-6-410, TN ST § 36-6-410

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T. C. A. § 36-6-411

§ 36-6-411. Juvenile court jurisdiction; parenting plan; department of children's services

Currentness

- (a) Nothing in this part shall be construed to alter, modify or restrict the exclusive jurisdiction of the juvenile court pursuant to § 37-1-103.
- (b) The juvenile court may incorporate any part of the parenting plan process in any matter that the court deems appropriate.
- (c) Nothing in this part shall require the department of children's services, acting in any capacity, to:
- (1) Be bound in any manner by a permanent parenting plan;
  - (2) Participate in mediation or dispute resolution in relation to any permanent parenting plan; or
  - (3) Facilitate the development, modification, or presentation of any permanent or temporary parenting plan to a court.

**Credits**

1997 Pub.Acts, c. 557, § 1, eff. June 1, 1997; 2000 Pub.Acts, c. 889, § 1, eff. Jan. 1, 2001; 2006 Pub.Acts, c. 947, §§ 1, 4, eff. July 1, 2006.

**Formerly** § 36-6-403.

Notes of Decisions (1)

T. C. A. § 36-6-411, TN ST § 36-6-411

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T. C. A. § 36-6-412

§ 36-6-412. Gender

[Currentness](#)

It is the legislative intent that the gender of the party seeking to be the primary residential parent shall not give rise to a presumption of parental fitness or cause a presumption in favor of or against such party.

**Credits**

1997 Pub.Acts, c. 557, § 1, eff. June 1, 1997; 2000 Pub.Acts, c. 889, § 1, eff. Jan. 1, 2001.

**Formerly** § 36-6-404.

T. C. A. § 36-6-412, TN ST § 36-6-412

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T. C. A. § 36-6-413

§ 36-6-413. Funding

Effective: July 1, 2008

[Currentness](#)

- (a) The costs of the mediation required by this part may be assessed as discretionary costs of the action.
- (b)(1) The court may direct that all or part of the cost of court-ordered mediation, education and any related services to resolve family conflict in divorce and post-divorce matters shall be paid from all available federal, state, and local funds. Eligibility for receipt of such funds will be based on a sliding scale based on a person's ability to pay.
- (2) There is hereby imposed an additional fee of sixty-two dollars and fifty cents (\$62.50) on the issuance of a marriage license; provided, however, that, in any county having a municipality defined as a premier type tourist resort pursuant to [§ 67-6-103\(a\)\(3\)\(B\)](#) when both applicants provide the county clerk with an affidavit or valid driver license establishing that they are not Tennessee residents, or when both applicants provide the county clerk with a valid and timely certificate of completion of a premarital preparation course as provided in subdivision (b)(3), the applicants shall be exempt from payment of sixty dollars (\$60.00) of this fee. The county clerk shall pay the sixty dollar (\$60.00) fee to the state treasurer, which fee shall be allocated as follows:
- (A) Seven dollars (\$7.00) to the administrative office of the courts for the specific purpose of funding the parenting plan requirements pursuant to this part, through the divorcing parent education and mediation fund, which funding includes the costs of court-ordered mediation, parenting education programs and any related services to resolve family conflict in divorce and post-divorce matters;
- (B) Fifteen dollars (\$15.00) to the department of children's services for child abuse prevention services;
- (C) Seven dollars and fifty cents (\$7.50) to the office of criminal justice programs for domestic violence services, which shall be in addition to the privilege tax on marriage licenses under [§ 67-4-505](#);
- (D) Twenty dollars and fifty cents (\$20.50) to the Tennessee Disability Coalition to build the capacity of the statewide disability community to offer services to families and children with disabilities;
- (E) Three dollars (\$3.00) to the Tennessee Court Appointed Special Advocates Association (CASA);

(F) Four dollars (\$4.00) to the department of education for the sole purpose of making grants to Tennessee Alliance of Boys and Girls Clubs in each grand division as selected by the commissioner of education for the purpose of defraying the expenses of such clubs implementing the "Project Learn" after-school program in the areas served by each club; and

(G) Three dollars (\$3.00) to the Tennessee chapter of the National Association of Social Workers for education, information, publications and capacity building efforts focused on strengthening services and referral networks to families and children.

(3) Funds in the divorcing parent education and mediation fund shall be used to fund the parenting plan requirements of this part, including the creation of a grant process to serve local courts utilizing any part of the parenting plan process, costs of court-ordered mediation, parenting educational programs and any related services to resolve family conflict in divorce, post-divorce, and other child custody matters.

(4) The clerks of court with divorce jurisdiction, or two (2) or more clerks within a county or judicial district acting jointly, may apply to the administrative office of the courts for funding to serve such court or courts.

(5) A man and a woman who, together or separately, complete a premarital preparation course in compliance with this section shall be exempt from the sixty dollar (\$60.00) fee otherwise imposed by this section. Such course shall be not less than four (4) hours each, and shall be completed no more than one (1) year prior to the date of application for a marriage license. Each individual shall verify completion of the course by filing with the application a valid certificate of completion from the course provider, on a form developed by the administrative office of the courts, which certificate shall comply with the requirements of this subdivision (b)(5).

(A) The premarital preparation course may include instruction regarding:

(i) Conflict management;

(ii) Communication skills;

(iii) Financial responsibilities;

(iv) Children and parenting responsibilities; and

(v) Data compiled from available information relating to problems reported by married couples that seek marital or individual counseling.

(B) All individuals who participate in a premarital preparation course shall choose from the following list of qualified instructors:

(i) A psychologist as defined under [§ 63-11-203](#);

(ii) A clinical social worker as defined in title 63, chapter 23;

(iii) A licensed marital and family therapist as defined in § 63-22-115;

(iv) A clinical pastoral therapist as defined in title 63, chapter 22, part 2;

(v) A professional counselor as defined in § 63-22-104;

(vi) A psychological examiner as defined in § 63-11-202;

(vii) An official representative of a religious institution that is recognized under § 63-22-204; or

(viii) Any other instructor who meets the qualifying guidelines that may be established by the judicial district for the county in which the marriage license is issued.

(C) The administrative office of the courts shall develop a certificate of completion form<sup>1</sup> to be completed by providers, which shall include:

(i) An attestation of the provider's compliance with the premarital preparation course requirements as set forth in this section;

(ii) The course instructor's name, address, qualifications, and license number, if any, or, if an official representative of a religious institution, a statement as to relevant training;

(iii) The name of the participant or participants; and

(iv) The hours completed and the date of completion.

Each premarital preparation course provider shall furnish each participant who completes the course with a certificate of completion as required by this subdivision (b)(5).

(6) Any moneys collected under this section during the pilot program and not expended shall remain in the divorcing parent and mediation fund established by the state treasurer within the general fund for use by the administrative office of the courts, consistent with subdivision (b)(2)(A). No moneys collected under this section shall revert to the general fund of the state, but shall remain available exclusively as specified in this section.

(7) In addition to other fees authorized by this section, court clerks shall be entitled to normal copying fees, not to exceed fifty cents (50¢) per page, for providing copies of documents necessary for parenting plans.

**Credits**

1997 Pub.Acts, c. 557, § 1, eff. June 1, 1997; 2000 Pub.Acts, c. 889, § 1, eff. Jan. 1, 2001; 2002 Pub.Acts, c. 854, § 1, eff. July 4, 2002; 2003 Pub.Acts, c. 203, § 1, eff. May 29, 2003; 2004 Pub.Acts, c. 951, §§ 1 to 3, eff. June 15, 2004; 2006 Pub.Acts, c. 947, §§ 2, 3, eff. July 1, 2006; 2008 Pub.Acts, c. 924, § 16, eff. July 1, 2008.

**Formerly** § 36-6-414.

**Footnotes**

**1** Contact the Administrative Office of the Courts at 511 Union Street, Suite 600, Nashville, TN 37219; 1-615-741-2687; 1-800-448-7970; or [www.tsc.state.tn.us](http://www.tsc.state.tn.us).

T. C. A. § 36-6-413, TN ST § 36-6-413

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T. C. A. § 36-6-414

§ 36-6-414. Evaluation

Currentness

The parenting plan processes established by this part shall be evaluated by the administrative office of the courts after the program has been in effect for three (3) years.

**Credits**

2000 Pub.Acts, c. 889, § 1, eff. Jan. 1, 2001.

T. C. A. § 36-6-414, TN ST § 36-6-414

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T. C. A. § 36-6-501

§ 36-6-501. Definitions

Currentness

As used in this part, unless the context otherwise requires:

- (1) “License” means a license, certification, registration, permit, approval or other similar document issued to an individual evidencing admission to or granting authority to engage in a profession, trade, occupation, business, or industry, or to hunt or fish, but does not include a license to practice law unless the supreme court establishes guidelines pursuant to [§ 36-6-511](#) making the provisions of this part applicable to such license; “license” does not include a license to operate any motor vehicle or other conveyance;
- (2) “Licensee” means any individual holding a license, certification, registration, permit, approval, or other similar document evidencing admission to or granting authority to engage in a profession, trade, occupation, business, or industry, or to hunt or fish. “Licensee” does not include an attorney only with respect to the attorney's license to practice law unless the supreme court establishes guidelines pursuant to [§ 36-6-511](#) making the provisions of this part applicable to such license;
- (3) “Licensing authority” means the board, commission, or agency, excluding the department of safety, that has been established by statute or state regulation to oversee the issuance and regulation of any license. Excluded from this definition is the supreme court, unless the supreme court acts in accordance with [§ 36-6-511](#), and any licensing authority established solely by the action and authority of a county or municipal government;
- (4) “Not in compliance with an order of visitation” means that one parent has intentionally interfered with implementation of a schedule of court-ordered visitation on two (2) or more occasions in any six-month period; and
- (5) “Order of visitation” means any order granting a non-custodial parent the right to visit with such parent's child on days and times determined by the court.

**Credits**

[2000 Pub.Acts, c. 971, § 2, eff. July 1, 2000.](#)

T. C. A. § 36-6-501, TN ST § 36-6-501

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T. C. A. § 36-6-502

§ 36-6-502. Visitation orders; compliance; enforcement

Currentness

(a) In all cases where visitation is ordered, both parents shall comply with such order of visitation by turning over custody of the child on the days and at the times so ordered by the court and by picking up the child and returning the child on the days and at the times so ordered by the court.

(b) An order of visitation may be enforced by using the license revocation, denial or suspension procedures provided in this part and any other sanctions deemed appropriate by the court.

(c) Notwithstanding any provision of law to the contrary, if the driver license of a parent is currently canceled, suspended or revoked pursuant to title 55, chapter 10, part 4, or title 55, chapter 50, part 5, and, if such parent personally drives a motor vehicle to the location where the parent is scheduled to take custody of a child pursuant to a valid order of visitation or parenting plan, then the parent or other person having custody of the child may refuse to turn over custody of the child under the circumstances and such refusal shall not constitute a violation of subsection (a).

**Credits**

2000 Pub.Acts, c. 971, § 3, eff. July 1, 2000; 2003 Pub.Acts, c. 243, § 2, eff. June 3, 2003.

T. C. A. § 36-6-502, TN ST § 36-6-502

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T. C. A. § 36-6-503

§ 36-6-503. Intentional violations; petition for finding of noncompliance; notice to other parent

Currentness

(a) A parent, who has been victimized by the other parent's intentional violation of [§ 36-6-502\(a\)](#) on two (2) or more occasions within any six-month period, may petition the court having jurisdiction over the order of visitation for a finding that the other parent is not in compliance with an order of visitation; provided, prior to the most recent violation, the victimized parent must have notified the other parent, by certified mail, return receipt requested, that subsequent violations of the court-ordered visitation shall be subject to sanctions authorized by this part and a copy of such notification must have been filed with the court. The petitioner shall include with the petition any information concerning a license held by the other parent and covered by [§ 36-6-511](#). A notice shall be served on the other parent together with the petition. Such notice shall state that:

- (1) The parent may request a hearing to contest the issue of compliance;
  - (2) A request for a hearing must be made in writing and must be received by the court within twenty (20) days of service;
  - (3) If such parent requests a hearing within twenty (20) days of service, the court shall stay the proceedings to certify such parent to any appropriate licensing authority for noncompliance with an order of visitation pending a decision after the hearing;
  - (4) If the court finds that such parent is not in compliance with an order of visitation or such parent does not request a hearing within twenty (20) days of service, the court may certify such parent to any appropriate licensing authority for noncompliance with a court order of visitation; and
  - (5) If the court certifies such parent to a licensing authority for noncompliance with an order of visitation, the licensing authority, notwithstanding any provision of law to the contrary, must deny a renewal request, revoke such parent's license or refuse to issue or reinstate a license, as the case may be, until such parent provides the licensing authority with a release from the court pursuant to [§ 36-6-508](#) that states such parent is in compliance with the order of visitation.
- (b) The notice sent pursuant to this section shall also include a statement informing such parent of the need to obtain a release from the court in order to allow such parent's license to be issued, renewed or reinstated. The notice shall be served by certified mail, return receipt requested, or by personal service with an affidavit of service completed by an authorized process server.

**Credits**

2000 Pub.Acts, c. 971, § 4, eff. July 1, 2000.

T. C. A. § 36-6-503, TN ST § 36-6-503

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T. C. A. § 36-6-504

§ 36-6-504. Hearing; consent order; costs

Currentness

(a) If a parent requests a hearing pursuant to this part to contest the court's intention to issue a finding of noncompliance to a licensing authority, the court shall conduct the hearing only to determine:

- (1) Whether the licensee is a parent subject to an order of visitation;
- (2) Whether the licensee is not in compliance with an order of visitation; and
- (3) Whether good cause exists to impose the licensing sanctions provided for in this part.

(b) The parties may enter into a consent order wherein the parent in violation agrees to henceforth comply with the order of visitation. Upon entry of such an order the proceedings for licensing sanctions shall be further stayed unless there is noncompliance with the consent order. In the event of noncompliance with the consent order, the stay shall cease and the court shall certify to each affected licensing authority that such parent is not in compliance with an order of visitation. Entry of such consent order shall constitute a waiver of such parent's right to any hearing on the issue of noncompliance with an order of visitation based upon the notice of noncompliance for which the consent order has been entered.

(c) The cost of this action and reasonable attorney's fees shall be taxed to the parent who is not in compliance with an order of visitation. The cost of this action and reasonable attorney's fees shall be assessed against any parent who, in bad faith, petitions the court for imposition of sanctions pursuant to this part.

**Credits**

2000 Pub.Acts, c. 971, § 5, eff. July 1, 2000.

T. C. A. § 36-6-504, TN ST § 36-6-504

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T. C. A. § 36-6-505

§ 36-6-505. Stay of proceedings; issuance of decision;  
allocation of additional time to nonoffending parent; costs

Currentness

(a) If a parent timely requests a hearing to contest the issue of compliance, the court shall stay the action and may not certify the name of such parent to any licensing authority for noncompliance with an order of visitation until the court issues a written decision after a hearing that finds such parent is not in compliance with an order of visitation; provided, that after a decision by the court has been made in the form of a final order as provided in [§ 4-5-315](#), there will be no further stay unless a reviewing court issues a stay, which stay shall be automatic upon the filing of a notice of appeal.

(b) The court shall issue its decision after hearing without undue delay. The order must inform both parents that either party may file an appeal of the decision within thirty (30) days of the date of the decision. A certification concerning the status of a license shall be automatically stayed pending disposition of an appeal.

(c) Upon a finding of noncompliance, the court may also allocate additional time with the child to the nonoffending parent.

(d) Notwithstanding any law to the contrary, the court shall assess costs of an unsuccessful appeal of notice of noncompliance to the parent in noncompliance.

**Credits**

[2000 Pub.Acts, c. 971, § 6, eff. July 1, 2000.](#)

T. C. A. § 36-6-505, TN ST § 36-6-505

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T. C. A. § 36-6-506

§ 36-6-506. Certification of noncompliance

Currentness

The court may certify in writing or by electronic data exchange to each licensing authority that the offending parent is not in compliance with an order of visitation if:

- (1) Such parent does not timely request a hearing upon service of notice issued under [§ 36-6-503](#);
- (2) Such parent has not entered into a consent order as provided for in [§ 36-6-504](#), or having entered into such an order, has failed to comply with such an order;
- (3) The court issues a decision after a hearing pursuant to this part that finds such parent is not in compliance with an order of visitation; or
- (4) In any proceeding to enforce any provision of an order of visitation, the court finds a parent to be not in compliance with the order of visitation and the other parent specifically prayed for relief in the form of license revocation, denial or suspension.

**Credits**

2000 Pub.Acts, c. 971, § 7, eff. July 1, 2000.

T. C. A. § 36-6-506, TN ST § 36-6-506

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T. C. A. § 36-6-507

§ 36-6-507. Suspension, revocation, or denial of a license upon certification of noncompliance; procedure

Currentness

(a) Notwithstanding any other law, rule or regulation to the contrary, the certification from the court under § 36-6-506 shall be a basis for the denial, suspension or revocation of a license, or for refusal to issue, renew, or reinstate a license by a licensing authority.

(b) The licensing authority shall notify, without undue delay, by regular mail, a parent certified from the court under § 36-6-506, that the parent's application for the issuance, renewal or reinstatement of a license has been denied or that the parent's current license has been suspended or revoked because the parent's name has been certified by the court as a parent who is not in compliance with an order of visitation.

(c) A notice of suspension shall specify the reason and statutory grounds for the suspension and the effective date of the suspension and may include any other notices prescribed by the licensing authority. The notice shall also inform the individual that in order to apply for issuance, renewal or reinstatement of the license, the individual shall obtain a release from the court in accordance with § 36-6-508.

(d) If a licensing authority fails to deny, suspend or revoke a license when so ordered by a court pursuant to this part, the other parent may petition the court to compel the authority's compliance.

(e) A notice to the individual by the licensing authority to revoke, deny, suspend, or refuse to renew or reinstate a license after receipt of the court certification under this section shall not be appealable under title 4, chapter 5, part 3 of the Uniform Administrative Procedures Act.

**Credits**

2000 Pub.Acts, c. 971, § 8, eff. July 1, 2000.

T. C. A. § 36-6-507, TN ST § 36-6-507

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T. C. A. § 36-6-508

§ 36-6-508. Compliance by parent; lifting of licensing sanctions

Currentness

(a) When a parent who is served notice under [§ 36-6-503](#), or whose license was otherwise revoked, denied or suspended by order of the court, complies with the order of visitation, the court shall provide the licensing authority with written or electronic data exchange confirmation that the parent is in compliance with the order and issue a release to the parent. For purposes of lifting the licensing sanctions pursuant to this section, a parent will be considered in compliance with an order of visitation upon fully complying with such order for the next four (4) consecutive scheduled visitation periods after the finding by the court of noncompliance.

(b)(1) Upon receipt of the release from the court, the licensing authority shall issue or extend the parent's license, or withdraw any denial, revocation or suspension of the parent's license; provided, that all other applicable licensing requirements are met by the parent. If all other applicable licensing requirements are met by the parent, the parent shall not, however, be required to be re-tested or re-certified for a license that was valid and that was held in good standing by the parent, or for which the parent had been determined otherwise eligible by the licensing authority to receive, prior to the revocation or suspension or denial of such license pursuant to this part, and which license was revoked, suspended or denied solely pursuant to the provisions of this part.

(2) If, after the revocation, suspension or denial of the license, and before the date on which the next periodic licensing would be due, the license is restored or issued by the licensing authority due to a release, the parent shall not be required to pay a new periodic license fee for the period remaining before the next periodic licensing fee would be due; provided, the licensing authority may impose a reasonable reinstatement fee not to exceed five dollars (\$5.00) for processing of the restoration or issuance of the license at any time.

**Credits**

[2000 Pub.Acts, c. 971, § 9, eff. July 1, 2000.](#)

T. C. A. § 36-6-508, TN ST § 36-6-508

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T. C. A. § 36-6-509

§ 36-6-509. Licensing authorities; cooperation with court

[Currentness](#)

The various licensing authorities shall cooperate with the court in any manner necessary to effectuate this part, and the court and the various licensing authorities shall enter into any necessary agreements to carry out the purposes of this part.

**Credits**

[2000 Pub.Acts, c. 971, § 10, eff. July 1, 2000.](#)

T. C. A. § 36-6-509, TN ST § 36-6-509

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T. C. A. § 36-6-510

§ 36-6-510. Motions to modify visitation or custody orders

Currentness

Nothing in this part prohibits a custodial or non-custodial parent from filing a motion with the court to modify an order of visitation or a custody order.

**Credits**

2000 Pub.Acts, c. 971, § 11, eff. July 1, 2000.

T. C. A. § 36-6-510, TN ST § 36-6-510

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T. C. A. § 36-6-511

§ 36-6-511. Licensure or registration qualifications; noncompliance with visitation order

Currentness

(a) In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a license as prescribed by law, rule or regulation issued under the provisions of titles 43, 44, 45, 56, 62, 63, 68, 70 or 71, for an individual to engage in a profession, trade, occupation, business, or industry, or to hunt or fish, applicants for licensure, certification or registration, and licensees renewing their licenses, and existing licensees, must not then be subject to a certification that the licensee is not in compliance with an order of visitation.

(b) The supreme court is encouraged to establish guidelines to suspend the license of an attorney who fails to comply with an order of visitation.

**Credits**

2000 Pub.Acts, c. 971, § 12, eff. July 1, 2000.

T. C. A. § 36-6-511, TN ST § 36-6-511

Current with laws from the 2013 First Reg. Sess., eff. through June 30, 2013 and Ch. 390, eff. July 1, 2013

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